

Appl. No. 09/971,131
Amdt. Dated Sep. 2, 2003
Reply to Office Action of May 30, 2003

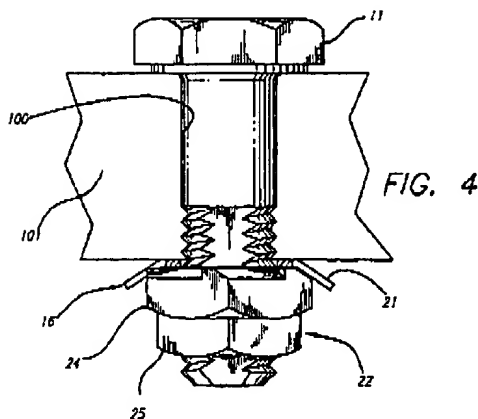
REMARKS/ARGUMENTS

Claims 1-10 and 12-24 remain in this application. Claim 11 has been canceled.

The § 103 Rejections

Applicant respectfully requests reconsideration of Claims 1-5, 8, 9, 12-17 and 19. Claims 1-5, 8, 9, 12-17 and 19 have been rejected under 35 U.S. C. §103(a) over U.S. Patent # 5,967,723 to Duran in view of U.S. Patent # 5,082,409 to Bias. Each of the claims listed above contains the limitation of a spindle nut retainer having a base section and a generally perpendicular peripheral section or is dependant upon a claim having this limitation.

Duran teaches locking a nut having notches in place with a retainer which does not have a generally perpendicular peripheral section as well as a base section. Such a configuration is not necessary due to the orientation of the notches on the nut. In contrast Applicant's claimed invention comprises a spindle nut retainer which locks a nut which does not include such notches. The Examiner notes that the fingers of the Duran's retainer could be bent ninety degrees to effectively function as Applicant's claimed invention. Applicant respectfully states that there is no motivation in Duran or the cited art to make such a variation. [case cite] Duran effectively locks the notched nut it discloses in place (see Figure 4). There is no motivation in Duran to vary the locking technique as set forth in applicant's invention, other than hindsight reconstruction.



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Bias teaches a clip embedded in a lug cover, wherein the clip holds the cover over a lug nut (see Figure 3 below). In Bias the clip and cover are attached from the exterior, thus there is a reason to have means to hold them in place. Duran's retainer clip is instead on the interior and is already locked in place by the nut. Thus, there is no motivation in Duran or Bias to combine their teachings.

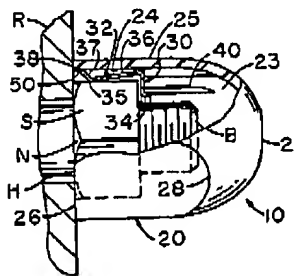
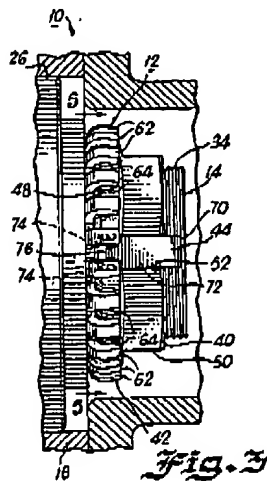


FIG. 3

The Examiner also states that it would be obvious to combine Bias with Duran because of the teachings within U.S. Patent No. 4,812,094 to Grube. Applicant respectfully does not agree. Grube discloses a way of holding a washer in assembly with a nut by placing a number of fingers on the washer over a flange on the nut. However, this means of affixation allows the nut and washer to rotate relative to one another (see Lines 33-39). There is no motivation in Duran to change its retainer to a device which can rotate along with the nut because the locking relationship between the two would be lost. Additionally, the nut of Duran as opposed to the nut of Grube, does not include a flange for affixation. There is no motivation to combine this art.

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In conclusion, there is not motivation within the prior art of Duran, Bias and Grube to combine the teachings of Bias or Grube with Duran. The Examiner's rejection is incorrect and reconsideration is requested.

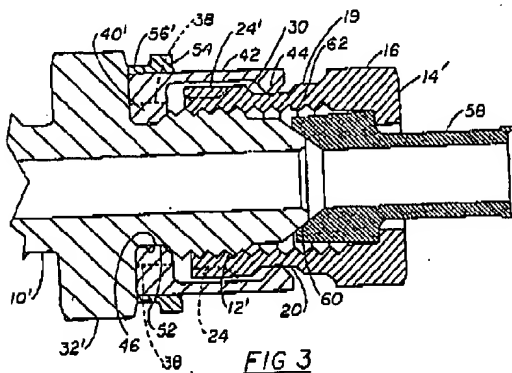
Applicant respectfully requests reconsideration of Claims 6, 7, 10 and 18. Claims 7 and 18 have been rejected under 35 U.S. C. §103(a) over Duran in view of Bias and in further view of U.S. Patent No. 5,967,721 to Giachinta et al. Claim 6 has been rejected under 35 U.S.C. §103(a) over Duran in view of Bias and in further view of U.S. Patent No. 5,215,336 to Worthing. Claim 10 has been rejected under 35 U.S. C. §103(a) over Duran in view of Bias and in further view of U.S. Patent No. 5,618,143 to Cronin et al. Each of the claims listed above contains the limitation of a spindle nut retainer having a base section and a generally perpendicular peripheral section or is dependant upon a claim having this limitation. As argued above, it is improper to combine the teachings of Duran and Bias. Neither Giachinta et al., Worthing or Cronin et al. disclose additional aspects which anticipate this claimed element of the invention. Reconsideration is requested.

Applicant respectfully requests reconsideration of Claims 20-24, as amended. Claims 20-24 have been rejected under 35 U.S.C. §103(a) over Duran in view of Bias and in further view of Giachinta and U.S. Patent No. 5,586,790 to Bynum. Claim 20 has been amended to more

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particularly describe how the claimed retainer snaps over a nut to be locked in place. Claims 21-24 depend directly or indirectly upon Claim 20.

First, none of the cited references teach a retainer which snaps over a nut at an end opposite the end adjacent the base section of the retainer as claimed in amended Claim 20. This type of engagement in addition to longitudinal windows within a peripheral section of the retainer does not allow the rotation of the nut and maintains the retainer in position over the nut. Second there is no motivation to combine the teachings of Bynum with Duran. Bynum teaches a reusable fastener capture device, yet Duran already has a reusable device. Bynum teaches a device where knobs 44 on the end of tangs 40 engage the surface of flats 22 on a nut. Yet Duran already has engagement within prepared notches which provides superior locking strength. Reconsideration of Claims 20-24 is requested.

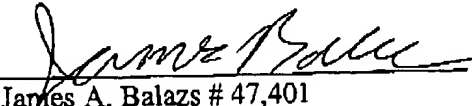


CONCLUSION

For the reasons set forth above, Claims 1-10 and 12-24 patentably and unobviously distinguish over the references of record and are in condition for allowance. Notice to that effect is respectfully requested. No fees or extensions are believed due in connection with this amendment. However, in the event fees or extensions are due, the Examiner is authorized to charge deposit account 03-0172 and treat this paragraph as a request for extension.

Respectfully Submitted,

Date: 9/2/03


James A. Balazs # 47,401

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